

OPTION E

(Adopted June 28, 1990)(Amended May 3, 1991)(Amended December 7, 1995)
(Amended April 20, 2001)(Amended November 9, 2001)(Amended May 3, 2002)
(Amended September 8, 2006)(January 30, 2007)

PROPOSED AMENDED RULE 1309.1 – PRIORITY RESERVE

(a) Priority Reserve

A Priority Reserve is established to provide credits for specific priority sources. The funding of the Priority Reserve shall be made quarterly on March 31, June 30, September 30, and December 31 or other schedule deemed practicable by the Executive Officer or designee. The amount of this allocation shall not exceed the following amounts:

<u>Air Contaminant</u>	<u>Quarterly Allocation (lbs per day)</u>
Reactive Organic Gases (ROG)	500
Nitrogen Oxides (NO _x)	250
Sulfur Dioxide (SO _x)	60
Particulate Matter (PM ₁₀)	125
Carbon Monoxide (CO)	250

Notwithstanding the above, the Executive Officer shall transfer on a one-time basis by January 1, 2002, the following to the Priority Reserve for use exclusively by Electric Generating Facilities, and return any unused portion of this allocation as of December 31, 2003, to the District's NSR account.

Sulfur Dioxide (SO _x)	750 lbs/day
Carbon Monoxide (CO)	6,000 lbs/day

(b) Specific Priority Sources

The following priority sources will be qualified to draw from a pool of credits established every quarter.

(1) Innovative Technology

Is innovative equipment or a process which:

- (A) the applicant demonstrates will result in a significantly lower emission rate from the affected source than would have occurred with the use of BACT; and

(B) can be expected to serve as a model for emission reduction technology.

(2) **Research Operations**

Is an experimental research operation for which:

(A) the purpose of the operation is to permit investigation, experiment or research to advance the state of knowledge or the state-of-the-art; and

(B) a specific time limit is imposed by the Executive Officer or designee, in no case exceeding two years.

(3) **Essential Public Service**

Is used to provide essential public service, provided the applicant:

(A) has provided all required offsets available by modifying sources to Best Available Retrofit Control Technology (BARCT) levels at the same facility; or

(B) demonstrates to the satisfaction of the Executive Officer or designee that the applicant owns or operates no sources within the facility which could be modified to BARCT levels to provide offsets.

For equipment not subject to any Regulation XI rule, application(s) for modifications providing offsets to satisfy subparagraph (A) of this section shall accompany the application(s) for the new source(s). For purposes of this section only, BARCT, as defined in the California Health and Safety Code Section 40406, shall not exceed any applicable District BACT cost guidelines and shall be determined as of the date that the application is deemed complete.

(4) **Electrical Generating Facility (EGF)**

Is a facility that generates electricity for its own use and is less than 10 Megawatts (MW); or is a facility less than 50 MegaWatts (MW) that generates not less than 30% of its electricity to pump water to maintain the integrity of the surface elevation of a municipality or significant portion thereof; or is a thermal powerplant facility that generates 50 MW or greater of electricity for distribution in the state grid system (net generator); such facility having submitted a complete application for certification

to the State Energy Resources Conservation and Development Commission (California Energy Commission) during calendar years 2000, 2001, 2002, 2003, 2005, 2006, 2007 and 2008, directly related to the production of electricity, such that for projects submitting applications in 2005 through 2008, the powerplant site and related facility will be the subject of an environmental impact report, negative declaration, or other document, prepared pursuant to Public Resources Code Section 21080.5, which will be prepared by the California Energy Commission.

- (5) In-Basin and Downwind Air Basin Electric Generating Facilities (EGFs)
- (A) (i) An In-Basin EGF is an EGF located within the South Coast Air Basin that submitted a complete application to the California Energy Commission during calendar years 2005, 2006, 2007 and 2008, and may be qualified to draw only SO_x, PM-10 and CO credits provided it complies with all applicable requirements of this rule, including the specific provisions applicable to the geographic zone that the EGF is located in as specified in (b)(5)(ii) and (g)(1). An In-Basin EGF located in Zone 3 is not qualified to draw credits from the Priority Reserve except for an In-Basin Municipal EGF which is an EGF that is wholly owned and operated by the municipality. Zones 1, 2, and 3, shown in Figure 1, are defined as the areas located within the Basin with an average PM_{2.5} concentration for years 2003 through 2005 of less than 18µg/m³; between 18 and 20 µg/m³ and more than 20 µg/m³, respectively. Zones are determined based on the procedures described in the District's Guidance Document for Rule 1309.1 PM_{2.5} Concentration and Zoning Determinations.
- (ii) An In-Basin EGF located in Zone 2 or an In-Basin Municipal EGF in Zone 3 which is an EGF that is wholly owned and operated by the municipality shall demonstrate all the following in order to draw credits from the Priority Reserve:

- (I) The cancer risk from the EGF is less than one in one million; and
 - (II) The non-cancer risk (acute and chronic) Hazard Index from the EGF is less than or equal to 0.5; and
 - (III) The cancer burden from EGF is less than or equal to 0.1.
- (B) A Downwind Air Basin EGF is an EGF located in a downwind air basin outside the District and may be qualified to draw only VOC credits provided:
 - (i) all the applicable requirements of H&S Code 40709.6 are met; and
 - (ii) the applicant pays a mitigation fee pursuant to subdivision (g); and
 - (iii) the applicant certifies the application for a permit to construct has been deemed complete by the downwind district; and
 - (iv) the cumulative amount of VOC credits issued to all Downwind Air Basin EGFs pursuant to this paragraph does not exceed 5,000 pounds per day; and
 - (v) the Executive Officer receives the written request for credits to be drawn before January 1, 2009; and
 - (vi) the California Energy Commission application was submitted during calendar years 2005, 2006, 2007 or 2008.
- (c) Requirements for an Electrical Generating Facility (EGF)

An EGF shall not be qualified to draw credits from the Priority Reserve unless it meets all applicable conditions of this rule including:

 - (1) The owner or operator agrees to a permit condition requiring the facility to meet BARCT for pollutants received from the Priority Reserve for all existing sources prior to the operation of the new source(s) or at a schedule approved by the Executive Officer and no later than 3 years following the issuance of a permit to construct the new source(s); and all sources under common ownership within the District are in compliance with all

applicable District rules, variances, orders, and settlement agreements; and

- (2) ~~¶~~The applicant pays a mitigation fee pursuant to subdivision (g); and
- (3) ~~¶~~The applicant conducts a due diligence effort (limited to costs not to exceed the mitigation fee for that pollutant) approved by the Executive Officer or designee to secure available ERCs for requested Priority Reserve pollutants. Such efforts shall include securing available ERCs including those available through state emissions banks or creating ERCs through SIP approved credit generation programs as available; and
- (4) ~~h~~Has the new source(s) fully and legally operational at the rated capacity within 3 years following issuance of a Permit to Construct or California Energy Commission certification, whichever is later, subject to an extension by the Executive Officer consistent with SCAQMD Rule 205; and
- (5) ~~e~~Enters into long-term (at least one year) contract with the State of California to sell at least 50% of the portion of the power which it has generated using the Priority Reserve credits and provided the Executive Officer determines at the time of permitting, and based on consultation with State power agencies, that the State of California is entering into such long-term contracts and that a need for such contracts exists at the time of permitting, if the facility is a net generator (this subsection does not apply to municipal utilities or joint power authorities); and
- (6) Notwithstanding Rule 1303(b)(2)(A), the applicant for an In-Basin EGF that files a complete application for which credits are sought in calendar years 2005, 2006, 2007 or 2008 demonstrates to the satisfaction of the Executive Officer that the proposed purchase of credits from the Priority Reserve together with credits otherwise obtained, is at an offset ratio of 1.2 to 1.0; and
- (7) Notwithstanding Rule 1303 (b)(2)(A), the applicant for a Downwind Air Basin EGF shall obtain credits at an offset ratio determined by the downwind air district; and

- (8) The Permit to Construct applicant agrees to a permit condition requiring the new source(s) to be fully and legally operational at the rated capacity within 3 years. An applicant that is a municipality may have an additional year if the EGF includes a renewable energy component with a capacity of at least 50 MW of renewable energy. The Governing Board may grant additional time extensions based upon a demonstration by the applicant that the extension is necessary due to circumstances beyond the reasonable control of the applicant. This paragraph does not supercede the provisions of SCAQMD Rule 205.

(d) The following provisions shall apply to the Priority Reserve:

- (1) Access to Priority Reserve Credits, except for Downwind Air Basin EGFs, shall be prioritized based on qualifying as an Essential Public Service or EGF and then, on the earliest date that an application is deemed complete.
- (2) Prioritization for a Downwind Air Basin EGF shall be based on the earliest date a written request is received by the Executive Officer pursuant to subparagraph (b)(5)(B).
- (3) Each facility shall maintain a balance of total Priority Reserve Credits obtained.
- (4) Essential Public Services may, at the discretion of the Executive Officer or designee, reserve Priority Reserve Offsets for up to three years to allow multiyear projects to be planned. The sum of such reservations shall amount to no more than 25 percent of the Priority Reserve allocation for those three years.
- (5) The AQMD Governing Board may determine that a specific project shall be given priority for access to the priority reserve based on public health or safety regardless of the date of application submitted.
- (6) If a subject facility holds an Emission Reduction Credit (ERC), then that ERC must be used before access to the Priority Reserve is allowed.
- (7) Allocations from the Priority Reserve shall not be banked or transferred from one EGF to another EGF.
- (8) An aggregate total of 400 pounds per day for PM-10 shall be

exclusively reserved for use by essential public services for calendar years 2001, 2002, and 2003.

- (9) Offset credits obtained from the Priority Reserve by an EGF may not exceed the allowable emissions level of the newly permitted unit(s).
 - (10) The Executive Officer shall monitor the PM-10 balance in the Priority Reserve and in the event the balance is less than 500 pounds per day the Executive Officer may transfer up to 1,500 pounds per day of PM-10 to the Priority Reserve. This transfer shall be done at a public meeting.
 - (11) Offset credits obtained from the Priority Reserve and used in the District may not be used for interpollutant trading.
- (e) Suspension of Health & Safety Code Section 42314.3
Pursuant to subsection (i) of Section 42314.3 of the Health & Safety Code, the District Board hereby suspends the applicability of Section 42314.3, since it determines that this rule makes adequate offsets available at a reasonable price to EGFs.
- (f) Additional Requirements for Net Generators Accessing Priority Reserve Credits
Any net generator accessing Priority Reserve Credits shall comply with all terms and conditions in any Executive Officer order, whether expired or not, relating to the generator's access of Priority Reserve credits, whether such credits are used or not.
- (g) Mitigation Fees for Electrical Generating Facilities
- (1) Applicants shall pay a mitigation fee of the following amounts for each pound per day of each pollutant obtained from the Priority Reserve:
 - (A) An EGF, as defined on May 3, 2002, where a complete initial application for certification to the CEC or a complete application for a permit to construct was filed in calendar years 2000, 2001, 2002 or 2003:

PM-10	\$25,000
SO _x	\$ 8,900
CO	\$12,000
 - (B) An In-Basin EGF located in Zone 1 where a complete initial application for certification to the CEC or a complete application

for a permit to construct was filed in calendar years 2005, 2006, 2007 or 2008:

PM-10	\$50,417
SO _x	\$15,083
CO	\$12,000

(C) An In-Basin EGF located in Zone 2 where a complete initial application for certification to the CEC or a complete application for a permit to construct was filed in calendar years 2005, 2006, 2007 or 2008:

<u>PM-10</u>	<u>\$75,626</u>
<u>SO_x</u>	<u>\$22,625</u>
<u>CO</u>	<u>\$18,000</u>

(D) An In-Basin Municipal EGF located in Zone 3 where a complete initial application for certification to the CEC or a complete application for a permit to construct was filed in calendar years 2005, 2006, 2007 or 2008:

<u>PM-10</u>	<u>\$100,834</u>
<u>SO_x</u>	<u>\$30,166</u>
<u>CO</u>	<u>\$24,000</u>

(E) A Downwind Air Basin EGF:

VOC	\$ 1,410
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- (2) The fee amounts in subparagraphs (g)(1)(B) and (g)(1)(C) shall be adjusted each year on July 1 by the change in the California Consumer Price Index for the previous calendar year. The Executive Officer shall be allowed to use 5 percent of the mitigation fees collected in any one year for program administration.

(h) Mitigation Fee Refund

A refund of paid mitigation fees less 20 percent or \$2,000,000, whichever is less, shall be allowed only for in-Basin EGF's that filed complete applications for which credits are sought in 2005, 2006, 2007 or 2008 provided the applicant submits a written request to the Executive Officer stating the reasons and provided: (1) the project requiring credits was cancelled within twelve months of purchase of the Priority Reserve credits due to circumstances that the Executive Officer determines is beyond the reasonable control of the applicant, and (2) a written request to the Executive Officer justifying the refund is

received no more than 30 days after the project cancellation. The Executive Officer shall return the excess credits to the District's NSR account.

FIGURE 1 - Three – Year Average (2003 – 2005) PM_{2.5} Concentration Zones in SCAQMD

